Supreme Court, U. S.
FILED
SEP 23 1976
MICHAEL RODAK, JR., CLERK

FOR ARGUMENT

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-353

HOWARD PIPER, THOMAS F. PIPER and WILLIAM T. PIPER, JR.,

Petitioners,

v.

CHRIS-CRAFT INDUSTRIES, INC.,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

CONSOLIDATED WITH NOS. 75-354 AND 75-355

REPLY BRIEF FOR PETITIONERS

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September 23, 1976

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REPLY BRIEF FOR PETITIONERS

When one peels aside the rhetoric in Chris-Craft's brief, its concessions with respect to the Piper individuals stand exposed at long last. Chris-Craft simply never proved that the Piper individuals caused the "injury" for which it has been awarded damages of $36 million.

Chris-Craft now claims that had Bangor Punta not purchased 120,200 shares for cash in May or had 110,000 shares tendered in July, it would have had a "formidable lead" of "at least 41% to 31%" in the contest for control of Piper Aircraft—"could not have been overtaken" and,

indeed, had a 99-1 chance of prevailing (Chris-Craft Br., pp. 4, 23, 79-82). Since those acquisitions occurred months after the only alleged violations of Section 14(e) for which the Piper individuals had been held liable, it is no longer open to dispute that the January events did not cause Chris-Craft any injury. For this reason alone the decisions of the Court of Appeals must be reversed.

In order to overcome this fatal flaw, Chris-Craft's brief mischaracterizes the record, repeatedly refers collectively to petitioners as though this were a conspiracy case, and refers to irrelevant matters which did not cause—and which no court has ever held caused—any harm to Chris-Craft. We are, therefore, constrained to submit this reply brief.

The brief served by the Securities and Exchange Commission ("SEC") as *amicus curiae,* on the other hand, deserves little comment on behalf of the Piper individuals. That brief never mentions the January communications. That brief never once suggests that the Piper individuals' actions in January 1969 violated Section 14(e). Indeed, that brief pointedly refuses to comment on whether there were any violations, whether the violations claimed caused the injury complained of, whether any injury has even been shown, whether liability, if any, should be apportioned among the defendants or whether the computation of damages by the Court of Appeals was correct. Nor does the brief attempt to support the "fanciful assumption" amounting to "rank speculation" (A-115) which is the sole basis for holding the Piper individuals jointly and severally liable with Bangor Punta and First Boston.* The SEC brief is primarily concerned with the standing

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* The brief properly concedes that "if the defendants can demonstrate that all or part of the plaintiff's damages were the result of factors other than the defendant's wrongdoing, the award of damages should be diminished accordingly" (SEC Br., p. 161, n. 370).

issue. Since the other parties in this consolidated proceeding are separately replying to the SEC brief, we will not burden the Court with additional comments.*

Some Comments With Respect to Chris-Craft's Mischaracterizations and Irrelevancies

1. The so-called "summit conference" at the Yale Club in April 1969 (Chris-Craft Br., pp. 9, 11-12) was the first meeting between representatives of Bangor Punta and the Piper individuals. No agreements were reached there. Nothing transpiring at that meeting or resulting from it was unlawful and no court has ever faulted the Piper individuals for participating in the meeting.

If Bangor Punta's subsequent cash purchases in May were in technical violation of Rule 10b-6, the Piper individuals were unaware of them and did not participate in them. They were never charged by Chris-Craft with any liability for them and were never held by any court to be responsible for them.

2. Bangor Punta's inadvertence in failing to describe its consideration of disposing of the Bangor and Aroostook Railroad was not and could not be attributed to the Piper individuals. Chris-Craft itself stipulated in the trial court

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* We must point out, however, the SEC's apparent lack of familiarity with the record in this case. During its discussion of the interrelationship of the Securities Act of 1933 and the Securities Exchange Act of 1934, it poses a theory if "the Pipers made knowing misstatements in connection with sales of securities" (p. 154) and if "the Pipers made false and misleading statements in connection with the sale of Bangor Punta or Piper securities" (p. 155). Since the liability of the Piper individuals is not premised on the sale of Bangor Punta securities but rather the absence of tenders of Piper Aircraft securities to Chris-Craft in January 1969, these references to the "Pipers" are inappropriate and unwarranted.

that the Piper individuals were unaware of the consideration being given by Bangor Punta to the railroad until reading reports appearing in the press after the sale (R460A). Chris-Craft's repeated reference to "petitioners" when discussing the railroad would appear a deliberate attempt to obscure that fact.

3. Chris-Craft's repeated reference to the self-described undisclosed $13 million "bonus" (Chris-Craft Br., pp. 10-11; 22, 64) is plainly wrong. The possibility that the 43 members of the Piper family might receive the same consideration as all other Piper Aircraft shareholders if Bangor Punta acquired more than 50% of the Piper Aircraft shares was not concealed. Chris-Craft itself stipulated in the trial court that the arrangement was described in Bangor Punta's preliminary and final prospectuses in May and July, respectively (R426A, R428A-430A). The Court of Appeals acknowledged that the provisions were fully described in the prospectuses (A-40, n. 17).* The alleged Section 14(e) violation was that the information was not reiterated in each letter to shareholders (A-41). Chris-Craft, however, specifically called the information to the attention of shareholders in its own letter to them (R424A). Indeed, Piper Aircraft's management's letter of June 4, 1969—the first of the three letters to shareholders concerning Bangor Punta's exchange offer—specifically admonished the Piper Aircraft shareholders: "In your own interests we urge you to read and study this material carefully" (R413A). There is no reason to believe shareholders did not follow that advice. Hence, the Court of Appeals could not say that Chris-Craft was injured (A-63).

Most importantly, however, there simply was no "bonus." The 43 members of the Piper family were only to be

* Indeed, Chris-Craft's own prospectus on its exchange offer fully described the arrangement also. See R430A.

treated the same as all other shareholders of Piper Aircraft.

Under the May 8 agreement between Bangor Punta and the 43 members of the Piper family, Bangor Punta agreed to exchange a specified package of Bangor Punta securities —valued at less than $80 (A-14)—for the 501,090 Piper Aircraft shares owned by the Piper family.* All other shareholders of Piper Aircraft were to be offered a package of Bangor Punta securities or cash having a value of at least $80 per share (*ibid.*). As Chief Judge Lumbard observed, the May 8 agreement contained a provision "to safeguard the Pipers in that they would receive consideration worth at least $80. Thus, as they well may have had a right to expect, the other shareholders of Piper were assured substantially equal treatment to that received by the Piper family" (C-23).

4. Chris-Craft's repeated reference to its own creation, a so-called "scorched earth" policy (Chris-Craft Br., pp. 5-6, 23, 75, 78, 107), illustrates the dearth of support for its claim. There was no such policy. No court ever referred to, or even suggested that, it existed. The plain fact is that Chris-Craft is attempting to penalize the Piper individuals because they and other members of management had the effrontery to refuse employment contracts offered to them by Chris-Craft (R2060A-2061A) and opposed Chris-Craft's takeover attempt instead. Management believed that a Chris-Craft takeover would harm Piper Aircraft because of Chris-Craft's "track record" and the character of its management (R2051A-2052A)—a belief no court has questioned and one found to be fully supported by the record (A-136, B-61-B-62).

* The Piper individuals and their wives owned only about 150,000 of the 501,090 shares. The remainder were owned by corporations, trusts and individuals related to William T. Piper, Sr., the now deceased founder of Piper Aircraft.

5. Despite Chris-Craft's arguments, certain points made in petitioners' Main Brief are undenied and undeniable.

a. The Piper Aircraft shareholders, the class for whose benefit the William's Act was enacted, benefited from refusing to accept Chris-Craft's $65 cash tender offer in January. Subsequent offers for their shares on the New York Stock Exchange and by both Chris-Craft and Bangor Punta were substantially higher than $65, reaching over $80 by August 1969 (see Main Br., p. 39).

b. Chris-Craft was not injured as a result of the January communications. After Chris-Craft's cash tender offer in January, Chris-Craft admittedly was still able thereafter either to obtain control or to dispose of its shares without loss and possibly some profit (see Main Br., p. 32). It was not until May 1969, when Chris-Craft found that Bangor-Punta "seemed to be succeeding" (R1340A) in its efforts to acquire control of Piper Aircraft, that Chris-Craft first claimed it was injured in January in its quest for control (see Main Br., pp. 39, 41, 47).

c. The $36 million judgment for "damages" awarded Chris-Craft was premised on Bangor Punta obtaining control thereby denying it to Chris-Craft. Until Bangor Punta acquired more than 50% of the shares Chris-Craft was in a position to do so itself. Instead of competing in the marketplace it "withdrew from the struggle" (A-18) and sought a "bail-out" (A-160) from the courts. Even if the 230,000 shares acquired by Bangor Punta allegedly in violation of Rule 10b-6 and Section 14(e) arithmetically gave Bangor Punta control, the Piper individuals did not participate in those alleged violations (see Main Br., pp. 9, 14, 34, 41-42).

The only acts of the Piper individuals in January 1969 complained of did not cause the damage for which Chris-Craft is now being compensated (see Main Br., p. 47).

6. Chris-Craft acknowledges these fatal weaknesses in its case against the Piper individuals by suggesting that the Piper individuals did not place their alleged violations of Section 14(e) in issue in this Court (Chris-Craft Br., p. 31). The position of the Piper individuals from the outset has been that the January 27 and 28 letters to shareholders and the January 29 Grumman press release were not in violation of Section 14(e).* Those communications were found by the trial court not to be materially misleading. It was only on appeal, without the benefit of observing the witnesses who testified concerning them, that the Court of Appeals decided they were misleading as a matter of law. That erroneous determination comprised the sole underpinning of the Court of Appeals' liability and damage decisions. Hence, whether the Piper individuals violated Section 14(e) is clearly a subsidiary question fairly comprised within the questions presented (see this Court's Rule 40.1(d)1). Indeed, it is the very questionable nature of the Court of Appeals' finding of violations that undermines Chris-Craft's standing and the liability, causation and damage determinations against the Piper individuals.

ARGUMENT

The Piper individuals did not violate Section 14(e) nor did their actions cause Chris-Craft damage.

Piper Aircraft management's "conviction" or "belief" that Chris-Craft's limited cash tender offer was inadequate was true. Communicating that opinion to shareholders did not violate Section 14(e). Illustrative of Chris-Craft's tactic throughout this proceeding is its misstatement of the record on this issue.

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* Since these are the only communications upon which the liability of the Piper individuals was based, they are reproduced in full in the Addendum to this brief.

The Inadequacy of the Cash Tender Offer

At the trial Chris-Craft claimed that the January 27 and 28 letters to shareholders giving management's opinion that the Chris-Craft tender offer was "inadequate and not in the best interests" of shareholders, were misleading because they could only be considered as referring to the price (A-135). Chris-Craft argued that the statement was misleading since First Boston "had advised" Piper Aircraft that the $65 *price* was fair. The record on this "advice" consists of the deposition testimony of Mr. Miller of First Boston that he orally informed W. T. Piper, Jr. of his own personal opinion that the price, not the offer, was a fair price to an individual tendering shareholder unless a better alternative was available (R.Ev. 453-454, 460). Mr. Miller made it clear at this deposition, however, that the term "fair" meant a "fairly high" price (R.Ev. 467) but that regardless of the price the offer itself, because limited to 300,000 shares, was inadequate (R.Ev. 465, 467). That is precisely what the January 27 and 28 letters to shareholders said (see Addendum, pp. 17, 19).

The trial court exercising its function as trier of fact rejected Chris-Craft's claim that this was a material misrepresentation (A-135-A-136), but the Court of Appeals chose to reject the trial court's findings and substitute its own. It held that a shareholder "most likely would assume that the reference was to price," hence the Piper individuals violated Section 14(e) because they were not "more specific" (A-38). On the appeal from the remand the Court of Appeals reversed the district court's damage calculation, and subtly—but erroneously—attempted to modify its earlier decision. It did so by stating that the January 27 and 28 letters failed to reveal First Boston's opinion that Chris-Craft's *offer* was "fair and equitable" (B-9).

Thus, Mr. Miller's personal view that the $65 price was "fairly high" has been distorted first into a claim that

First Boston had advised that in its opinion the *price* was "fair" (A-135); then that the *price* was "fair and equitable" (A-38); and now that the *offer* was "fair and equitable" (B-9). The record clearly belies the claim.

The Propriety of the Grumman Transaction

With respect to the Grumman transaction, at trial Chris-Craft claimed it was a hoax entered into solely to interfere with Chris-Craft's tender offer. The District Court, after observing the witnesses at trial found that the transaction was not a sham (A-136). The Court of Appeals agreed (A-39) but faulted the Piper individuals for not fully describing all the provisions of the Grumman agreement. It made its own findings in the form of an assumption that the repurchase provisions in the agreement were "likely to affect the attitude" of Piper Aircraft shareholders towards Chris-Craft's tender offer (A-40).

Chris-Craft does not attempt to support that assumption. Instead it reiterates its claim that the Grumman transaction was a hoax despite the contrary findings in the courts below. It asserts that the material misrepresentation consisted of portraying "the Grumman agreement as a completely favorable deal" (Chris-Craft Br., p. 75). That is not what the Court of Appeals held. It could not do so.

The provisional nature of the Grumman transaction was clearly described in the press release. It merely provided "an opportunity for Grumman and Piper to study the feasibility and advantages of a possible combination of the two companies" (R266A; Addendum, p. 21). Moreover, the release clearly stated that the "agreement is subject to various conditions" (R267A; Addendum, p. 21). Thus, rather than portraying the transaction as all but complete its tentative nature was clearly set forth as an opportunity to study a possibility.

In essence, Chris-Craft's position—which the Court of Appeals adopted—is that the January communications had

to be as detailed and prolix as a registration statement or proxy solicitation in order to comply with the low standard of materiality espoused. That standard ignored the circumstances and the total mix of information made available; instead it focused microscopically on only one of the many conditions of the agreement (see R274A-275A).

The Improper Materiality Standard Applied

Since the filing of the Piper individuals' Main Brief, this Court decided *TSC Industries, Inc.* v. *Northway, Inc.*, 96 S.Ct. 2126 (1976). It observed with respect to proxy statements (at p. 2132): "Some information is of such dubious significance that insistence on its disclosure may accomplish more harm than good." If the standard of materiality is set so low "not only may the corporation and its management be subjected to liability for insignificant omissions or misstatements, but also management's fear of exposing itself to substantial liability may cause it simply to bury the shareholder in an avalanche of trivial information—a result that is hardly conducive to informed decisionmaking." (*Id.* at 2132-2133.) In view of the speed with which cash tender offers and responses thereto are made, the standard of materiality applied here will assure that shareholders will be inundated with such trivia.

As this Court observed when discussing the legislative purpose behind the Williams Act in *Rondeau* v. *Mosinee Paper Corp.*, 422 U.S. 49, 58 (1975), "Congress intended to do no more than to give incumbent management an opportunity to express and explain its position." The position of Piper Aircraft's management here was simple and clear. Chris-Craft was not, in its opinion, an acceptable company to operate an aircraft manufacturing enterprise (see Main Br., pp. 6-7; see also B-60-B-62). Chris-Craft does not challenge the appropriateness of that opinion. Shareholders were entitled to be informed of it. As the Senate Report on the Williams Act notes, "if the

offer is for less than all the outstanding shares, perhaps only a part of them will be taken. In these instances he will remain a shareholder in the company, under a new management which he has helped to install without knowing whether it will be good for the company." S.Rep. No. 550, 90th Cong., 1st Sess., p. 2 (1967).

Management also believed that the tender offer was inadequate because limited.* That belief is not challenged —indeed, subsequent events proved it to be factually true (see Main Br., pp. 38-39). Accordingly, in the January 27 and 28 letters management expressed and explained its position (see Addendum, pp. 17-20). There was no need to engage in a lengthy discussion explaining that an individual shareholder, because of his own particular circumstances, might be willing to accept the $65 whereas others might not. This was a decision which each shareholder had to make for himself.** This was a decision which each shareholder in fact made for himself.

There is not one shred of evidence in the record supporting the speculation that shareholders did not tender to Chris-Craft because of anything said in those communications. Indeed, if anything, the record supports the trial court's finding of lack of materiality and reliance. Those shareholders who did not tender to Chris-Craft on its cash tender offer in January did not do so for reasons unrelated

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* The Court of Appeals' finding that "Since CCI had decided by the time of the cash tender offer that its objective was to win control of Piper, it clearly was willing to accept as many shares as it could obtain" (A-61), if correct, gives judicial sanction to the misrepresentation by Chris-Craft that its offer was limited and that it had no specific intention to acquire control by the tender offer (see Main Br., p. 31). Piper Aircraft's management's letters commenting on the inadequacy of the offer were sent on the assumption that these statements were true.

** For example, shareholders who purchased stock during the preceding year when Piper Aircraft shares traded for over $65 (see R251A) would not tender because of the loss while others would want a tax loss for personal reasons.

to the January communications. The record demonstrates that shareholders considered the prospect (a) that a control battle would develop which would drive the price higher—precisely what happened (R651A; R.Ev. 750-751); (b) that a higher offer would be made—which is what Chris-Craft's own witness testified would happen (R852A); and (c) that a competing offer would be made—again precisely what happened here.

Under these circumstances it is inconceivable that the kind of specificity demanded by the Court of Appeals here "would have assumed actual significance in the deliberations of the reasonable shareholder." *TSC Industries, Inc.* v. *Northway, Inc., supra,* 96 S.Ct. at 2133. Indeed, we respectfully submit that the "total mix" of information available to a shareholder deciding whether or not to accept $65 in cash for his stock would not have been significantly altered had the January communications said what the Court of Appeals faulted them for not saying.

The trial court, which heard the witnesses, found that such information was not material to the Piper Aircraft shareholders when deciding whether to accept or reject Chris-Craft's January tender offer (A-135-A-137). The Court of Appeals reversed and found materiality as a matter of law (A37-A40). This Court, however, just recently held that the determination of materiality "requires delicate assessments of the inferences a 'reasonable shareholder' would draw from a given set of facts and the significance of those inferences to him, and these assessments are peculiarly ones for the trier of fact". *TSC Industries, Inc.* v. *Northway, Inc., supra,* 96 S.Ct. at 2133.

As discussed in our main brief (pp. 26-27)—but ignored by Chris-Craft—Piper Aircraft shareholders took advantage of all the opportunities available to them: some tendered to Chris-Craft; some sold on the New York Stock Exchange; some did not tender during the tender offer but subsequently sold on the New York Stock Exchange for

prices higher than $65 or tendered to Bangor Punta or to Chris-Craft and received a package of securities valued higher than $65. The trial court specifically found that "in terms of price to tendering shareholders" Piper Aircraft management's "efforts to procure a better alternative for Piper shareholders" were "successful" (A-136). Shareholders were given sufficient information to permit them to make informed judgments during the tender offer. The purpose behind the Williams Act was fully satisfied here.

The Absence of Proof of Scienter By Any Standard

Chris-Craft attempts to impute scienter to the Piper individuals by distorting the record. Mr. Miller's personal belief that $65 was fairly high and might be acceptable to an individual tendering shareholder but that the offer as a whole was inadequate was all that was known. It was also known that under the Grumman agreement, Grumman had the right after six months to require Piper Aircraft to find another buyer for the shares or repurchase them if merger discussions proved unfruitful. The Court of Appeals held that such knowledge coupled with the court's assumptions made the information material. The assumptions were (1) that a shareholder "most likely would assume" that calling the offer inadequate was a reference to price and (2) that knowledge of certain terms of the Grumman agreement "was likely to affect the attitude" of shareholders towards Chris-Craft's tender offer. Based upon these assumptions, the Court of Appeals found the necessary scienter.

The record is devoid of any suggestion that the Piper individuals made the same assumptions. Yet, knowledge of the facts plus the Court of Appeals' assumptions were bootstrapped into knowledge that the shareholder letters were materially misleading (A-38) and a reckless disregard of an obligation to shareholders (A-40). This, in

turn, was bootstrapped into a finding by the Court of Appeals in a footnote (A-68, n. 31) that the Piper individuals were acting "not on behalf of the corporation in committing their illegal acts, but in their own individual interests." The trier of fact who saw and heard the witnesses interpreted the evidence differently, drew contrary inferences and concluded that there was no wrongful conduct. Since the complaint against the corporation was dismissed the District Court found that the complaint against the Piper individuals must be dismissed *"a fortiori"* (A-161).

Piper management has never denied that had it not been for Chris-Craft's takeover attempt they would not have sought other merger partners in January 1969. Chris-Craft is just plain wrong when it asserts: "Since Piper's president admitted that the Grumman affair was designed to injure Chris-Craft, scienter was conceded" (Chris-Craft Br., p. 78).* The Grumman affair was not held to have injured Chris-Craft. Even the Court of Appeals could "find no fault" in the Grumman transaction (A-39). All that the Court of Appeals found was that the Grumman press release failed "to disclose with substantial accuracy a transaction which was likely to affect the attitude of Piper shareholders toward the [Chris-Craft] tender offer" (A-40). The determination on appeal that a fuller explanation "was likely to affect the attitude" of shareholders is a far cry from finding that the information was withheld in order to—or even knowing that it would—mislead shareholders so that they made an uninformed decision with respect to Chris-Craft's tender offer. Chris-Craft never denies that those shareholders who did not tender made the right decision. They were not harmed since they subsequently received more for their shares (see Main Br., p. 39).

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* Since no court ever held that the Piper individuals uttered any falsehoods during Chris-Craft's tender offer or otherwise, Chris-Craft's gratuitous distortion that "they were not free to lie to achieve their objectives" (Chris-Craft Br., p. 78) warrants no further comment.

The Complete Absence of Any Proof of Causation in Fact

Chris-Craft never disputes that it failed to prove that anything occurring in January caused its claimed injury (see Main Br., pp. 31-35). The most it claims is that absent the January communications it would have been leading in the contest (Chris-Craft Br., p. 80). What it neglects to mention is that it was leading in the contest as late as May 14, 1969 (see Main Br., Addendum I, p. 1a). To the extent that it lost the lead thereafter, that loss was not due to anything done by the Piper individuals.

Thus, as a last resort Chris-Craft falls back on the "fanciful assumption" amounting to "rank speculation" (A-115) that there was some sort of "continuing adverse impact on Chris-Craft's later offer to Piper shareholders" (Chris-Craft Br., p. 89). Chris-Craft does not deny, however, that between the close of its cash tender offer in February and the opening of its exchange offer in May over two million shares of Piper Aircraft stock traded on the New York Stock Exchange (see Main Br., p. 44, n.*). Such a trading volume hardly demonstrates continuing reliance by shareholders on Piper Aircraft management's advice.

Chris-Craft's refusal even to address Section 28(a) of the 1934 Act demonstrates its failure to establish that the acts of the Piper individuals complained of caused Chris-Craft any damages. Nowhere in its discussion of causation (Chris-Craft Br., pp. 79-86) does it indicate how, if at all, the January communications caused its damages.

Its newly adopted "continuing adverse impact" theory is a slim reed indeed to support a $36 million judgment. The theory never meets Chris-Craft's "burden of establishing the traditional prerequisites of relief" *Rondeau* v. *Mosinee Paper Corp., supra,* 422 U.S. at 63. It certainly does not comport with the requirement of *Mills* v. *Electric Auto-Lite Co.,* 396 U.S. 375, 389 (1970), that "damages should be recoverable only to the extent that they can be shown."

As we pointed out in our Main Brief (p. 47), Chris-Craft never showed what damages it suffered by being denied the opportunity to purchase additional shares on its tender offer. It does not even pretend that it made such a showing. Instead, it claims that its damages were the "destruction of its $60 million investment" (Chris-Craft Br., p. 94). Even the Court of Appeals considered Chris-Craft's investment to be only $44 million (A-18) for which it was awarded "damages" of $36 million. Nothing in the record suggests that Chris-Craft's 697,495 shares, amounting to 42.4% of Piper Aircraft's outstanding shares, were only $8 million in September 1969, January 1970 or even April 1975.

Conclusion

For the reasons stated in this Reply Brief and in our Main Brief, the judgment of the Court of Appeals should be reversed and the judgment of the District Court dismissing the complaint against the Piper individuals should be reinstated.

Respectfully submitted,

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September 23, 1976.

ADDENDUM

PIPER AIRCRAFT CORPORATION
Lock Haven, Pennsylvania 17745

IMPORTANT

January 27, 1969

DEAR SHAREHOLDER:

In an attempt to gain control of your Company, Chris-Craft Industries, Inc., a small New York based conglomerate, has offered to purchase 300,000 shares of Piper Common Stock at $65 per share.

Your Board of Directors has carefully studied this offer and is convinced that it is inadequate and not in the best interests of Piper's shareholders. Accordingly, your Board unanimously urges that it be rejected. **Not one member of your Board of Directors or management will tender his shares.**

Obviously, if Chris-Craft is suddenly willing to offer you $65 per share for your shares, Chris-Craft must believe that Piper stock is worth substantially more than it is offering.

Remember, any tender of your shares will be irrevocable on or after January 30, 1969. In other words, after this date your shares could be out of your possession and control until March 24, 1969 and without any payment to you.

In addition, this offer is conditioned on your surrendering to Chris-Craft an irrevocable proxy for the annual meeting on February 4, 1969. Your management believes this is a solicitation of proxies without proper compliance with the federal securities laws and has referred the matter to counsel.

In your own interest, we urge you to consider carefully the following important points:

1. This offer is a fully taxable transaction.

2. Piper's stock has traded as high as $72.25 on the New York Stock Exchange within the past eight months.

3. Piper's sales increased more than 20% in fiscal 1968 over the prior year, and its earnings per share were approximately 29% higher.

4. The general aviation industry is a growth industry, and Piper expects to participate fully in this growth.

You should know that Piper's management has had preliminary discussions with several major industrial corporations regarding possible combination with Piper. These are continuing. In the opinion of your Board of Directors and management, if a merger or consolidation were deemed advisable, a higher value could be realized for all shareholders and possibly on a tax-free basis. Any shareholder who has tendered his shares will not, of course, benefit from any such development.

For these reasons, your Board of Directors again strongly recommends that you reject the Chris-Craft offer.

We will forward additional important information to you within the next several days. If I can be of further assistance to you, please do not hesitate to call me collect at (717) 748-6711.

Sincerely,

s/ W. T. Piper, Jr.
W. T. Piper, Jr.
President

Piper Aircraft Corporation

Lock Haven, Pennsylvania 17745

January 28, 1969

Dear Shareholder:

In our letter of January 27, 1969, the Board of Directors unanimously urged you to reject the tender offer, conditioned upon an "irrevocable" proxy, by Chris-Craft Indutries, Inc. Your Management firmly believes this offer is inadequate and not in the best interests of Piper shareholders.

The annual meeting of shareholders of Piper will be held Tuesday, February 4, 1969 to elect directors and approve the selection of independent auditors. All shareholders as of the record date, January 3, 1969, are entitled to vote at this meeting. Since the directors are to be elected on a cumulative voting basis it is important to have as high a representation as possible at the meeting.

Chris-Craft has announced that it has purchased 200,500 shares of Piper previous to its tender offer "with a view to control of Piper". In addition, Chris-Craft has stated that if its offer is successful it would then plan to combine Chris-Craft and Piper. Since Chris-Craft's offer, which expires on February 3, 1969, asks for an "irrevocable" proxy for the annual meeting to be held the following day, Chris-Craft would then be in a position to elect its own representatives to your Board of Directors. *If Chris-Craft then continued its plan to combine Chris-Craft and Piper, Chris-Craft in effect would be dealing with itself or its own representatives.* Certainly the fiduciary duty of Piper's Board of Directors is to the Piper shareholders. On the other hand, the fiduciary duty of Chris-Craft's directors or representatives would be to Chris-Craft's shareholders—*not to you.*

Your Board of Directors and Management firmly believe that Chris-Craft's offer is the first step in a plan to gain control of Piper and then merge Piper into Chris-Craft Industries rather than dealing on an arm's-length bargaining basis.

In your own best interests, we urge you to support your present independent Board of Directors. Regardless of the number of shares you may own please sign, date and mail your proxy today.

We will continue to keep you informed.

Sincerely,

s/ W. T. Piper, Jr.
W. T. Piper, Jr.
President

NEWS FROM PIPER

Piper Aircraft Corporation - Public Relations Department - (717) 748-6711 Lock Haven, Pa.
New York Public Relations Office - Suite 1106, 52 Vanderbilt Avenue, N.Y. - (212) 686-3331

FOR RELEASE January 29, 1969

New York, N.Y.—January 29, 1969. Grumman Aircraft Engineering Corporation has agreed to purchase 300,000 shares of Piper Aircraft Corporation's authorized but unissued common stock at $65 per share, according to an announcement by E. Clinton Towl, Chairman of Grumman, and William T. Piper, Jr., President of Piper. The agreement is subject to the approval of the respective Boards of Directors of the two companies, both of whom are scheduled to meet on Thursday, January 30, 1969, to consider the transaction.

Mr. L. J. Evans, President of Grumman, said the purchase provides an opportunity for Grumman and Piper to study the feasibility and advantages of a possible combination of the two companies. He added that Grumman has been carefully studying the potential of the general aviation industry and the possibility of further diversification into commercial business, not only in the aircraft industry but in other fields.

Mr. Piper stated that his firm, a manufacturer of a wide assortment of corporate and private aircraft models for the commercial market, would expect to benefit materially from its association with Grumman in the areas of finance, production capability and technology.

The sales agreement is subject to various conditions, including that the shares be listed on the New York Stock Exchange, that there be no material adverse change in the business of Piper, and that there be no change in control of Piper.

Certificate of Service.

I hereby certify that three copies of the foregoing Reply Brief for Petitioners were served by hand this 23rd day of September on Arthur L. Liman, Esq., 345 Park Avenue, New York, New York 10022, counsel for Respondent. I further certify that all parties required to be served have been served.

Dated: September 23, 1976.

ZACHARY SHIMER
Counsel for Petitioners
30 Rockefeller Plaza
New York, New York 10020

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